

PINNOCK & WAKEFIELD, A.P.C.

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**OUTERBRIDGE ACCESS ASSOCIATION,
SUING ON BEHALF OF DIANE CROSS;
and DIANE CROSS, An Individual,**

Plaintiffs,

v.

**MARIE CALLENDER'S PIE SHOPS, INC.
d.b.a. MARIE CALLENDER'S #254;
PACIFIC BAGELS, LLC d.b.a.
BRUEGGARS BAGELS; COURTYARD
HOLDINGS, LP; PSS PARTNERS, LLC;
AND DOES 1 THROUGH 10, Inclusive,**

Defendants.

Case No.: 07cv2129 BTM (AJB)

**JOINT MOTION AND MOTION TO
DISMISS ONLY DEFENDANT MARIE
CALLENDER'S PIE SHOPS, INC.
d.b.a. MARIE CALLENDER'S #254
WITH PREJUDICE FROM
PLAINTIFFS' COMPLAINT.**

[Fed.R.Civ.P. Rule 41(a)(2)]

THIS JOINT MOTION IS HEREBY MADE AND IT IS HEREBY STIPULATED
by and between OUTERBRIDGE ACCESS ASSOCIATION, SUING ON BEHALF OF
DIANE CROSS; and DIANE CROSS, An Individual, Plaintiffs, on the
one hand, and Defendant MARIE CALLENDER'S PIE SHOPS, INC. d.b.a.
MARIE CALLENDER'S #254 on the other hand, through their
respective attorneys of record that, pursuant to Federal Rules of
Civil Procedure, Rule 41 (a)(1) and (2), this Court enter a

1 dismissal with prejudice of ONLY Defendant MARIE CALLENDER'S PIE
2 SHOPS, INC. d.b.a. MARIE CALLENDER'S #254 from Plaintiffs'
3 Complaint, Case Number: 07cv2129 BTM (AJB). Additionally,
4 dismissal of ONLY Defendant MARIE CALLENDER'S PIE SHOPS, INC.
5 d.b.a. MARIE CALLENDER'S #254 shall not affect the continuing
6 litigation with the remaining Defendants.

7
8 **THIS JOINT MOTION IS HEREBY MADE AND IT IS SO STIPULATED.**

9
10 Dated: March 11, 2008

PINNOCK & WAKEFIELD, A.P.C.

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12 By: s/ Michelle L. Wakefield
13 Attorney for Plaintiffs
14 E-mail: MichelleWakefield@
PinnockWakefieldLaw.com

15
16 Dated: March 11, 2008

CALL JENSEN & FERRELL

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18 By: s/_Lisa A. Wegner
19 Attorney for Defendant MARIE
20 CALLENDER'S PIE SHOPS, INC.
21 d.b.a. MARIE CALLENDER'S #254
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**OUTERBRIDGE ACCESS ASSOCIATION,
SUING ON BEHALF OF DIANE CROSS;
and DIANE CROSS, An Individual,**

Plaintiffs,

v.

**MARIE CALLENDER'S PIE SHOPS,
INC. d.b.a. MARIE CALLENDER'S
#254; PACIFIC BAGELS, LLC d.b.a.
BRUEGGARS BAGELS; COURTYARD
HOLDINGS, LP; PSS PARTNERS, LLC;
AND DOES 1 THROUGH 10,
Inclusive,**

Defendants.

Case No.: 07cv2129 BTM (AJB)

PROOF OF SERVICE VIA ECF

[Fed.R.Civ.P. 6(e)]

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 3033 Fifth Avenue, Suite 410, San Diego, California, 92103.

On this date, I served the following document(s) described as JOINT MOTION AND MOTION TO DISMISS ONLY DEFENDANT MARIE CALLENDER'S PIE SHOPS, INC. d.b.a. MARIE CALLENDER'S #254 WITH PREJUDICE FROM PLAINTIFFS' COMPLAINT on all Defendants in this action:

Lisa A. Wegner, Esq.
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MARIE CALLENDER'S #254

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ATTORNEY FOR DEFENDANT PACIFIC BAGELS, LLC d.b.a. BRUEGGARS
BAGELS

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ATTORNEY FOR DEFENDANT COURTYARD HOLDINGS, LP

X BY ELECTRONIC SERVICE TRANSMISSION via the United States District Court, Southern Division of California, Case Management/Electronic Case Files, Filing System. I served a copy of the above listed document(s) to the e-mail addresses of the

addressee(s) by use of email as identified and maintained therein.

AND/OR BY:

_____ placing _____ the original _____ a true copy thereof enclosed in sealed enveloped addressed as stated above.

_____ **BY MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid, mailed at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

_____ **BY FACSIMILE TRANSMISSION:** From FAX No. (619) 858-3646 to the facsimile numbers listed above on the mailing list. The facsimile machine I used complied with Rule 6 (e), and no error was reported by the machine.

_____ **STATE:** I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

X **FEDERAL:** I declare that I am employed in the office of a member of the Bar of this Court, at whose direction this service was made.

EXECUTED on March 11, 2008, at San Diego, California.

APR
Angela Payne